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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

*Before the*  
**FEDERAL COMMUNICATIONS COMMISSION**  
*Washington, D.C. 20554*

In re Applications of

ROSAMOND RADIO, INC.

JAMIE LEE COBERLY

DIANE K. HITT

For construction permit for a  
New FM Station on Channel 228A  
in Rosamond, California

MM Docket No. 92-121

File No. BPH-910225MG

File No. BPH-910225MH

File No. BPH-910225MI

ORIGINAL  
FILE

To: Joseph P. Gonzalez  
Administrative Law Judge

**JOINT REQUEST FOR DELETION OF ISSUE**

Rosamond Radio, Inc. ("Rosamond Radio"), Jamie Leigh Coberly ("Coberly") and Diane K. Hitt ("Hitt"), applicants for a new FM station to operate on Channel 228A in Rosamond, California (File Nos. BPH-910225MG, BPH-910225MH and BPH-910225MI), by their respective attorneys, respectfully request the Presiding Judge to delete the issue concerning coverage of the community of Rosamond which was specified as Issue 1 (hereinafter referred to as the "City Grade Coverage Issue") in the Hearing Designation Order (DA 92-640), released in the above-captioned proceeding on June 11, 1992.

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Rosamond is a United States Census designated place with no specific legal boundaries. Prior to designation, Hitt filed an informal objection against Coberly's application challenging Coberly's city grade coverage or line-of-site to Rosamond as required by 47 C.F.R. §73.315. In its opposition, Coberly argued that Hitt had misstated the boundaries of Rosamond. Based on Hitt's and Coberly's pleadings, the Commission determined that there was a question of fact as to the boundaries of Rosamond and designated a City Grade Coverage Issue (Issue 1).<sup>1/</sup>

Since the designation, Coberly and Hitt have entered into settlement agreements with Rosamond Radio ("Settlements"). The agreement between Hitt and Rosamond Radio provides for Rosamond Radio to make a cash payment to Hitt in consideration for the dismissal of Hitt's application. The agreement between Rosamond Radio and Coberly provides for the dismissal of Coberly's application and the pooling of the efforts of the two applicants in the form of a surviving corporate applicant which will construct and operate the new station at Rosamond. Joint requests for approval of the respective agreements were filed with the Presiding Judge on July 1, 1992. If the Judge approves the settlement agreements, there will be one surviving applicant.

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<sup>1/</sup> Neither Hitt nor Coberly ever challenged Rosamond Radio's delineation of Rosamond's boundaries as set forth in its application (Exhibit E-3).

Rosamond Radio's application, as amended to reflect the new merged corporate applicant, Waremar Communications, Inc., will be the surviving application. The Rosamond Radio application is supported by an engineering showing which defines the boundaries of the community of Rosamond. A copy of Rosamond Radio's coverage map, as attached to the original Rosamond Radio application (Exhibit E-3), is attached hereto as Exhibit A.

In view of the proposed Settlements, the parties hereby request that the City Grade Coverage Issue be deleted. In the surviving application, the boundaries are defined by two large maps, both covering the identical areas of (1) the Rosamond Water System District and (2) the Rosamond Sewer System District. See Exhibit A. The maps, which were provided to Milan Leggett, Rosamond Radio's consulting engineer, by the Rosamond Community Services District, were identified by an official of the District as the realistic representation of the boundaries of Rosamond. See Milan Leggett's supplemental Technical Statement attached hereto as Exhibit B. Rosamond Radio's coverage map shows that the surviving applicant's proposed facility provides the requisite 70 dBu coverage to the depicted area of Rosamond. See Exhibit A.

There has never been any question as to Rosamond Radio's delineation of the community of Rosamond. In their exchange of pleadings which triggered the Commission's designation of the

City Grade Coverage Issue, as noted above, neither Coberly nor Hitt ever challenged Rosamond Radio's definition of the Rosamond boundaries or its coverage of the community. Furthermore, even if there had been a challenge to Rosamond Radio's definition of the boundaries of Rosamond, Mr. Leggett's supplemental Technical Statements (attached hereto as Exhibits B and C) demonstrate that the Rosamond Radio facility, which is the facility proposed by the surviving applicant, would provide city grade coverage to Rosamond, as defined by both the other applicants -- that is, as defined by the United States Census Designated Boundaries<sup>2/</sup> in Coberly's application, or as defined by the United States Post Office service area in Hitt's application. In both cases, the surviving applicant's proposed facility would provide the requisite 70 dBu (3.16 mV/m) service to all or over 90% of the community of Rosamond.<sup>3/</sup>

WHEREFORE, for the reasons set forth herein, the parties respectfully submit that there is no question of fact as to the boundaries of the community of Rosamond or of the adequacy of the surviving applicant's proposed service to that community and

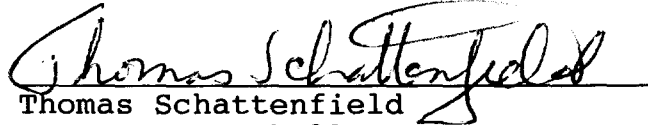
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<sup>2/</sup> See FM Channel Policies/Procedures, 90 FCC 2d 88, 101 (1982).

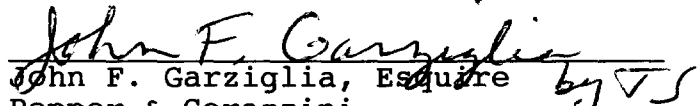
<sup>3/</sup> See John R. Hughes, et al., 50 Fed. Reg. 5679 (1985), in which the Commission found that service to 80% of the residential area of the community of license constitutes "substantial compliance" with the FCC's city coverage requirement.

request that the Presiding Judge delete the City Grade Coverage Issue.

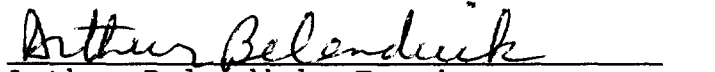
Respectfully submitted, .



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July 20, 1992

ROSAMOND RADIO, INC.

PROPOSED FM BROADCAST STATION

ROSAMOND, CALIFORNIA

CHANNEL 228A, 93.5 MHZ

FEBRUARY 1991

EXHIBIT E-3 - PREDICTED SERVICE CONTOURS



ROSAMOND RADIO, INC.

TECHNICAL STATEMENT

This statement is relative to the application for a new FM broadcast station in Rosamond, California, filed by Rosamond Radio, Inc., FCC File No. BPH-910225MG.

Rosamond is a census designated place and therefore, has no specific legal boundaries. Rosamond Radio, Inc., in its application, used the boundaries of the Rosamond Water District and the Rosamond Sewer System District. The Water District and the Sewer System District boundaries are identical, and information concerning such boundaries was obtained from large maps supplied by Mr. Bud Hill of the Rosamond Community Services District. Mr. Hill indicated that the boundaries of these entities represent the realistic boundaries of Rosamond. EXHIBIT E-3 of the original Rosamond Radio, Inc. application indicates the boundaries of Rosamond as depicted on the Water District and Sewer System District maps.

Rosamond Radio, Inc. has been requested to provide assurance that the proposed station would provide the required 70 dBu coverage to all of Rosamond as indicated on U. S. Census maps.

The attached EXHIBIT E-3A is an amendment to EXHIBIT E-3 of the original application. EXHIBIT E-3A indicates the boundaries of Rosamond as taken from 1980 U. S. Census maps. At the time the Rosamond application was filed, 1990 census maps were not readily available.



Milan Leggett

Technical Consultant to Rosamond Radio, Inc.

July 13, 1992

'WITHIN 20 NM ON 135.053175



ROSAMOND RADIO, INC.

TECHNICAL STATEMENT


This statement is relative to the application for a new FM broadcast station in Rosamond, California, filed by Rosamond Radio, Inc., FCC File No. BPH-910225MG.

ROSAMOND is a census designated place and therefore, has no specific legal boundaries. DIANE K. HITT, in her application for the same facility, FCC File No. BPH-910225MI, used the boundaries of the area served by the U. S. Post Office in Rosamond.

Rosamond Radio, Inc. has been requested to provide assurance that the proposed station would provide the required 70 dBu (3.16 mV/m) service to Rosamond as indicated in the Hitt application.

The attached EXHIBIT E-3B is an amendment to EXHIBIT E-3 of the original Rosamond Radio, Inc. application. EXHIBIT E-3B indicates the boundaries of Rosamond as defined in the Hitt application. The area of Rosamond, as indicated on EXHIBIT E-3B, has been measured with a calibrated polar planimeter and it has been determined that 92% of the area is within the predicted 70 dBu contour proposed by Rosamond Radio, Inc.

MILAN LEGGETT states that the above information as well as the attached EXHIBIT E-3B are correct to the best of his knowledge and belief.



Milan Leggett

July 16, 1992



CERTIFICATE OF SERVICE

I, JoAnn Felix, do hereby certify that I have this 20th day of July, 1992, caused to be sent by first class United States mail, postage prepaid, or by hand delivery, copies of the foregoing "JOINT REQUEST FOR DELETION OF ISSUE" to the following:

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JoAnn Felix

July 20, 1992

\* By Hand